

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10381 of 2012

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Ashok Kumar No.2, Son of Late Brajnandan Prasad, Resident of Mohalla-Bazitpur, P.S.- Barh, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, (Home) (Prison) Government of Bihar, Patna
2. The Inspector General of Prison, Homes, Government of Bihar, Patna
3. The Superintendent of Central Jail Gaya
4. The Superintendent of Central Jail Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date: 25-08-2017

None appears for the petitioner.

The matter is pending since 2012 and on a perusal of the supplementary counter affidavit filed by Respondent Nos. 2 and 3 on 29.04.2016, it transpires that after the charge-sheet dated 24th of April, 1997 was issued to the petitioner and the petitioner challenged the same in this writ petition and after stay on the inquiry was granted by this Court on 18.07.2012, it is stated that all the dues of the petitioner pertaining to salary was paid, he was allowed to discharge his duties, he was also permitted joining on 03.07.2010. It is also



indicated in the supplementary counter affidavit that after working up to 31.01.2013 petitioner has retired on attaining the age of superannuation and after his superannuation, all his pensionary claims have been settled. From Paragraph 7 onwards, it is indicated as to how his pensionary claims have been settled, payment of pension and gratuity made to him and the supplementary counter affidavit indicates that all the post retiral claims of the petitioner have been settled, as is evident from the documents annexed thereto.

That being so, now, it is clear that with regard to the charge-sheet in question dated 24th of April, 1997 inquiry could not be conducted in view of the stay granted by this Court and in the meanwhile, the employee has retired from service and all his pensionary claims have been settled. That apart, the reasons that were considered by the Court which tempted it to stay the inquiry may also be taken note of.

The petitioner was working in the Sub Jail when on 13.07.1996 it is alleged that certain prisoners escaped from the jail and thereafter they were apprehended and brought back to the jail on 11.04.1997. On account of the negligence on the part of the petitioner a charge-sheet was issued to him on 24.04.1997, six allegations were levelled in the charge-sheet. Proceedings were conducted and the Inquiry Officer after conducting the inquiry submitted his report and



the petitioner was dismissed from service. However, the same was challenged in C.W.J.C. No. 459 of 2000 and in the meanwhile petitioner also filed an appeal before the I.G. (Prison). The I.G. (Prison) allowed his appeal on 27.10.2001, cancelled the dismissal order and directed for proceeding with fresh inquiry in accordance with law and, therefore, C.W.J.C. No. 459 of 2000 was dismissed as infructuous on 24.01.2003. Subsequently, the petitioner was proceeded with by issuing a fresh charge-sheet on 24.04.1997 and in the meanwhile, in the criminal prosecution launched, the Judicial Magistrate, 1st Class on 18.02.2003 acquitted him of all the charges. The matter was kept pending for five years. The departmental inquiry did not commence and, therefore, the matter was kept as it was. However, nothing was done and the inquiry was closed and all of a sudden on 29.01.2007 i.e. after a period of more than 10 years the I.G. (Vigilance) directed for a *suo motu* inquiry. The petitioner was imposed with a punishment on 15.02.2007 downgrading his pay, confirming his suspension etc. He challenged this again in C.W.J.C. No. 10430 of 2008 and this was set aside by this Court vide order passed on 12.05.2011. Subsequently, when again the impugned charge-sheet was issued on the same set of allegations, the writ petition in question was filed and *prima facie* finding the departmental inquiry again into the same issue not permissible, the



stay was granted by this Court and now as indicated hereinabove, during the pendency of the matter, the petitioner has retired and all his pensionary claims have been settled. That being so, the respondents, now after his retirement, cannot proceed with the inquiry into the charge-sheet issued to the petitioner challenged in this writ petition i.e. charge-sheet dated 20th of January, 2012, instead, they would have liberty to take action, if permissible under law, in accordance to the provisions of Rule 43(b) of the Bihar Pension Rules.

With the aforesaid liberty to the respondents, now, finding no case made out for any further indulgence into the matter, the writ petition stands disposed of.

(Rajendra Menon, CJ)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	31.08.2017
Transmission Date	

